

F 1 Q And you were one of the six or eight  
2 advisors?

3 A Correct.

4 Q What is Abraham Lodge Number 8 F and AM?

5 A Masonic Lodge.

6 Q It's a Masonic Lodge. Where is that  
7 lodge located?

8 A It's located at -- the lodge is located  
9 in Louisville.

10 Q What were the years of your membership  
11 in F and AM?

12 A I'm still a member.

13 Q Since when, if you recall?

14 A Late '70s. Had to be earlier than that,  
15 had to be middle '70s, something like that. I'm wanting  
16 to say '72 or something, '73. I'm not sure.

17 Q Now, the Masons, they're a fraternal  
18 organization, are they not?

19 A Correct.

20 Q Okay. What were the years of your  
21 membership in the York Rite, if you recall?

22 A Late '70s I think or something, middle  
23 '70s. I'm not sure. Until now.

24 Q Are you still a member?

25 A Still am.

1 Q Is York Rite a fraternal organization?

2 A Yes.

3 Q Now, how about the Shriners, are you  
4 still a member of the Shriners?

5 A Yes, sir.

6 Q Where is that lodge?

7 A Indianapolis.

8 Q Indianapolis, Indiana?

9 A Yes, sir.

10 Q Where is the York Rite lodge, by the  
11 way?

12 A Louisville.

13 Q Louisville. Now, the Shriners, that's  
14 also a fraternal organization, is it not?

15 A (Nodded head affirmatively.)

16 Q Are you an officer of the York Rite  
17 Lodge?

18 A No, sir.

19 Q Have you ever been an officer of any of  
20 the lodges that we just mentioned?

21 A Masonic Lodge I was.

22 Q That's the F and AM. And when were you  
23 an officer of that lodge?

24 A In the '70s sometime or another.

25 Q What is is DeMolay?

1           A           It's a youth organization sponsored by  
2 the Masons for young men and teenagers.

3           Q           And where is the DeMolay Lodge?

4           A           It was in New Albany.

5           Q           Are you still a member?

6           A           No.

7           Q           How long were you a member?

8           A           Probably three years or four years. I'm  
9 not exactly sure.

10          Q           When?

11          A           Late '70s.

12          Q           Was WKYW an AM or an FM station?

13          A           AM.

14                   MR. CAREY: I want to object. I guess  
15 it's a little late since this question has been asked, but  
16 I want to object to this form. Can we --

17                   MR. SOLOMON: What's the problem?

18                   MR. CAREY: Is there a specific WKYW  
19 you're referring to? I'm not sure that -- but over the  
20 years there may not have been more than WKY.

21          A           I can give you the call letters if you  
22 want.

23          Q           I'm referring to the WKYW listed in your  
24 integration statement on page 5.

25                   MR. CAREY: Thank you. I'm only trying

6 1 to avoid some confusion down the road.

2 Q Sure. WKYW radio station you were staff  
3 engineer, were you not?

4 A Yes, sir.

5 Q And that's an FM station?

6 A No, it's an AM station.

7 Q AM station, okay. Where is that  
8 located?

9 A Louisville, Kentucky.

10 Q Why did you leave your position as staff  
11 engineer?

12 A I went to a better job.

13 Q And how about WKLO, is that an AM or FM  
14 station?

15 A Both.

16 Q Did you leave WKYW to take a job at  
17 WKLO?

18 A Yes, I did.

19 Q Why did you leave WKLO?

20 A To build a TV station.

21 Q Is that -- was that TV station WDRB?

22 A Yes, sir.

23 Q Did you have any ownership interest in  
24 that station?

25 A No, sir.

6

7

1 Q Did you at one time serve as a staff  
2 engineer to Channel 32?

3 A Yes, sir.

4 Q Is that WLKY?

5 A Yes, sir.

6 Q And where was that station located?

7 A Louisville.

8 Q Was that a full or a part-time position?

9 A Full-time.

10 Q Why did you leave that station?

11 A I went back to WKLO again.

12 Q It says here in your integration  
13 statement that during 1970 for the period 1971 -- excuse  
14 me, from 1977 you were transmitter supervisor at WKJJ?

15 A That's WKLO. That's the same station.

16 Q And that's a Louisville station?

17 A Yes, sir. It's licensed in Louisville.

18 Q If you receive a construction permit at  
19 New Albany, will you continue to be involved with  
20 MidAmerica, non-broadcast businesses?

21 A What do you mean by non-broadcast? I  
22 don't understand.

23 Q The engineering businesses.

24 A I probably will still do some  
25 engineering, but I'm going to curtail that for the most

1 part.

2 Q In your integration statement regarding  
3 the issue of curtailment, of the matter of curtailment,  
4 you use the term that you will, "Cause MidAmerica to  
5 terminate its existing operations."

6 What do you mean by that?

7 MR. CAREY: Excuse me. I would like to  
8 object unless you're going to show him the statement. I  
9 think it's becoming a memory test as to what he said in  
10 his integration statement, unless you show him the  
11 statement what you're quizzing him on.

12 MR. BERFIELD: Here's a copy of the  
13 statement.

14 MR. SOLOMON: Thank you.

15 Q It's on the carryover paragraph on page  
16 3 towards the bottom of that carryover paragraph. It  
17 reads, "If MidAmerica is a successful applicant here Mr.  
18 Boyce will cause MidAmerica to terminate its existing  
19 operations with the possible exception of those which  
20 clearly can be performed by existing or additional  
21 employees."

22 Could you elaborate on that?

23 A Okay. Well, I guess on an ongoing basis  
24 I have been sliding more of the engineering  
25 responsibilities onto one of my employees. And, you know,

1 I'm going to spend my time on the radio station, let him  
2 take care of what little engineering stuff he may still  
3 have, be involved in.

4 I'm not going to -- I guess I'm not  
5 going to leave somebody hanging in the woods until they  
6 find somebody else to take on. I'm going to discontinue  
7 some of the work I have been doing, but I'm not going to  
8 drop them like a brick. I'm going to let my employee take  
9 that on as needed until they find somebody else to take on  
10 their engineering.

11 Q Are you going to terminate any  
12 employees?

13 A No.

14 Q Are you going to turn away business?

15 A I probably will turn away some business.

16 Q Will any of the existing MidAmerica  
17 employees be involved in the construction of your proposed  
18 station?

19 A Sure.

20 Q Who will they be?

21 A Certainly my engineering person and my  
22 secretary will be involved in it also.

23 Q Will you be involved in it?

24 A Of course.

25 Q Will any of the existing MidAmerica

1 employees be involved in the operation of the station?

2 A Probably continuing, sure.

3 Q Who will they be?

4 A Both my engineering guy and my  
5 secretary.

6 Q How many full-time employees do you  
7 intend to have at the station?

8 A I haven't determined that for sure. I  
9 don't know that I can give a direct answer on that.

10 Q If you don't know --

11 A It's going to be a small staff, I know  
12 that.

13 Q Could you give me some number?

14 A Five.

15 Q Will these be five full-timers?

16 A I think so.

17 Q Will you have some part-time staff as  
18 well?

19 A Probably have some part time as well.

20 Q What will the responsibilities of these  
21 employees be?

22 A Sales mostly.

23 Q Okay. Well, I guess you testified that  
24 some or one or more of these employees will have  
25 responsibilities with respect to MidAmerica's

1 non-broadcast business as well; is that correct?

2 A Well, the engineering guy I have now  
3 will continue on, and he will take care of the new  
4 station, technical stuff as needed.

5 Q All right. Have you ever heard of the  
6 term time brokerage?

7 A I've heard the term. I don't know much  
8 about it.

9 Q How about local market agreement?

10 A I know what that is.

11 Q LMA, is that the same as local market  
12 agreement?

13 A Right.

14 Q Do you have any plans to do an LMA with  
15 any other entity?

16 A No.

17 Q Do you have any plans to do any type  
18 brokerage with any other entity?

19 A (Shook head negatively.)

20 Q Are you ruling these out, these kinds of  
21 arrangements?

22 A I haven't ruled anything out, but that's  
23 not my intentions.

24 Q Where is Seymour, Indiana?

25 A Seymour --

8 1 Q If you know.

2 A Seymour is about 50 miles north of  
3 Louisville.

4 Q And approximately how far is it from New  
5 Albany?

6 A 45 I guess.

7 Q You have an agreement, do you not, you  
8 being MidAmerica, with the Seymour, Indiana Airport  
9 Authority; is that correct?

10 A Yes, sir.

11 Q Who does the work for the Airport  
12 Authority?

13 A I do.

14 Q And what expertise is involved in that  
15 work?

16 A I don't know how to answer that.

17 Q Is it a technical-type job?

18 A Yes, sir.

19 Q Is it a specialized engineering-type  
20 job?

21 A Yes, sir.

22 Q Are you the only individual associated  
23 with MidAmerica who performs that work for the Airport  
24 Authority?

25 A Yes.

8 1 Q Was the Airport Authority -- did the  
2 Airport Authority come to you personally to do this work  
3 when they retained MidAmerica? Did they seek you out?

4 A Yes.

5 Q Now, how long is the agreement with the  
6 Airport Authority, what is the term of the agreement?

7 A My current agreement?

8 Q Yes.

9 A My current agreement is for three years.

10 Q When did the three years begin?

11 A April I think.

12 Q Of what year?

13 A This year.

14 Q 1993?

15 A Yes, sir.

16 Q So it runs through April 1996?

17 A Yes, sir.

18 Q Is that agreement in writing?

19 A Yes, sir.

20 Q Approximately how many hours a week do  
21 you spend on the Airport Authority work?

22 A A week?

23 Q A week.

24 A An hour.

25 Q Any weeks where you spend more than an

1 hour?

2 A Yes, sir.

3 Q Could you tell me a little about that?

4 A Well, I might spend three or four hours  
5 in one week and not go up there again for another month.

6 Q Were there times when you spent more  
7 than three or four hours a week on the Airport Authority  
8 situation?

9 A I may have one time or another. I can't  
10 remember spending more than three or four hours usually.

11 Q Is that three or four hours at a time or  
12 three or four hours divided over a five-day or seven-day  
13 period?

14 A It would be at one time. Yeah, I  
15 probably spent three or four hours at one time.

16 Q What exactly does MidAmerica do for the  
17 Airport Authority?

18 A We maintain their localizer and TV  
19 navigation leads.

20 Q Radars?

21 A No.

22 Q Are there any other contracts,  
23 agreements or understandings that MidAmerica has with any  
24 other entities concerning the obligation to perform  
25 continuing services?

1 MR. CAREY: I want to object. I think  
2 that the question assumes a fact that is not in evidence.

3 MR. SOLOMON: Let me rephrase it.

4 MR. CAREY: Please.

5 Q Does MidAmerica have any other  
6 agreements in writing or oral with any other entities for  
7 the performance of continuing maintenance services?

8 A Well, we do continuing maintenance, but  
9 I'm not sure what you mean by agreement.

10 Q An agreement similar to the agreement  
11 you have with Seymour.

12 A We don't have any written long-term  
13 agreement, if that's what you mean.

14 Q But you have written short-term  
15 agreements?

16 A Actually I don't think we've got any  
17 short-term written agreements even.

18 Can I add something?

19 Q Go ahead.

20 A The airport thing is cancelable in 60  
21 days, if you want to know that.

22 Q Okay. Bear with me for one moment.

23 A Sure.

24 Q I'm getting to the end.

25 Let me show you the third page, second

8 1 full paragraph of your integration statement. Would you  
2 take a look at that, please?

3 A Third page?

4 Q Where you discuss your duties as general  
5 manager. Do you see that? Just read it over, please.

6 A The one of general manager proposed  
7 station, is that what you're talking about?

8 Q Yes.

9 A Okay.

10 Q All right. How many departments of the  
11 station will there be as proposed?

12 A Departments you mean?

13 Q Departments. Well, you use the term.

14 A You mean like sales?

15 Q Exactly. Could you just count them up  
16 and confirm the number of departments that you have  
17 proposed for the station?

18 A I guess four.

19 Q Would the first one be sales?

20 A Yeah.

21 Q Second production?

22 A Right.

23 Q Programming?

24 A Right.

25 Q Engineering?

1 A Right.

2 Q Personnel?

3 A Yeah, personnel and community affairs.

4 Q That would be one department probably.

5 That's five departments?

6 A Right.

7 Q Would there not be more? Because you  
8 say including sales, so there may be more departments; is  
9 that correct?

10 A I wouldn't think in a small station  
11 there would be any more departments.

12 Q All right. So we're talking then about  
13 four or five departments?

14 A Right.

15 Q All right. How many people will be  
16 employed in each department?

17 MR. CAREY: I'm going to object. I  
18 don't see the relevance to the issues.

19 MR. SOLOMON: I think it's very relevant  
20 to the question of integration, but do you want to direct  
21 him not to answer?

22 MR. CAREY: I'm going to advise him not  
23 to answer, yes.

24 MR. SOLOMON: Are you instructing him  
25 not to answer?

1 MR. CAREY: I'm advising the witness not  
2 to answer.

3 Q Does the witness want to answer that  
4 question?

5 A What's the question again?

6 MR. CAREY: If you want me to use the  
7 word instruct, I'll use the word instruct if that seems to  
8 make you guys happy, but I'm advising the witness not to  
9 answer.

10 If you want to take that as instruction,  
11 you can take it as I instruct.

12 Q Would the witness answer the question?

13 A Will you say the question?

14 MR. CAREY: Look, I'm going to instruct  
15 the witness not to answer and request that you not badger  
16 the witness by --

17 MR. SOLOMON: I'm not badgering the  
18 witness.

19 MR. CAREY: By engaging in a semantical  
20 diatribe.

21 MR. SOLOMON: I find a difference  
22 between the word instruct and advise.

23 MR. CAREY: Okay.

24 Q Now, I would like you to focus for a  
25 moment on the antenna site and tell me who obtained the

1 antenna site for the proposed facility?

2 A I did.

3 Q And how did you go about doing that?

4 A I went looking for a piece of property  
5 that was in the required engineering parameters and talked  
6 with the man who was --

7 Q Yes.

8 A -- in control of the property.

9 Q What was his name, do you recall?

10 A Steve Aulbach.

11 Q How do you spell that?

12 A I don't know off the top of my head.

13 Q Let's see if I can help you.

14 A-u-l-b-a-c-h; is that right?

15 A Sounds right.

16 Q Then what happened?

17 A I entered into an option to lease that  
18 site for a tower after I checked with my consulting  
19 engineer, made sure it was a good site.

20 Q Let me show you a copy of the site  
21 document that was produced as part of standard document  
22 production; is that all right, counselor?

23 MR. CAREY: Please.

24 Q Do you recognize the site document?

25 A The site agreement, yes, sir.

1 Q Is that the Indiana --

2 A Land Company.

3 Q -- Land Company contract, is that --  
4 what date is that please?

5 A November 9th, 1991, I guess.

6 Q Is that your signature?

7 A Actually the 20th. It was November  
8 20th, 1991. It's my signature, yes.

9 Q All right. You say November 20th?

10 A That's the date at the top of it.

11 Q Could you point that out to me, please?  
12 I'm sorry, I don't see the 20th.

13 A Isn't that 20th? It's a 6 I guess. -- I  
14 guess that's a 6.

15 Q Looks like a 6th.

16 A In the 6th.

17 Q Okay.

18 MR. CAREY: Let's -- I'm going to need  
19 to take a break pretty soon. Do you want to take it now  
20 or in a minute or two?

21 MR. SOLOMON: I prefer to -- if you have  
22 to take a break, it's important -- I would prefer to get  
23 through this line of questioning if I could.

24 MR. CAREY: Okay. Let's ...

25 Q All right. Were there any other

1 documents other than this Indiana Land Company agreement  
2 that were created before the real estate, the agreement  
3 was signed by you?

4 MR. CAREY: I'm going to object. The  
5 documents -- I'm going to object. The question --  
6 specific documents as to what?

7 Q Relating to the antenna site.

8 A I still don't understand the question.  
9 I asked for a document before that one.

10 Q That's right. Are there any other  
11 documents, any documents that were signed by you before  
12 the Indiana Land Company document was signed in November  
13 of 1991?

14 A I still don't understand.

15 Q Is the Indiana Land Company contract the  
16 only document that you have pertaining to your antenna  
17 site?

18 MR. CAREY: Objection.

19 MR. SOLOMON: What's the basis for that  
20 objection?

21 MR. CAREY: The basis is the judge's  
22 ruling. We've already been down this road with the judge  
23 where you or Mr. Berfield, I believe it was you, asked for  
24 supplemental document production for additional documents,  
25 and the judge made a ruling they need not be produced.

1 Now you're fishing in the same waters.

2 MR. SOLOMON: The judge reversed his  
3 ruling. Let me show you his order. If you haven't  
4 received it I apologize.

5 MR. CAREY: I have not received this.  
6 Mr. Boyce I think has seen it and we -- but okay. My  
7 understanding from our conversations last week were we  
8 were going to leave the additional issues for deposition  
9 and discovery later, and we're really not prepared to go  
10 beyond what we gentlemen had talked about at the end of  
11 last Tuesday's sessions.

12 MR. SOLOMON: We didn't have this order  
13 at the end --

14 MR. CAREY: That's right, but --

15 MR. SOLOMON: The judge has ruled on the  
16 20th that MidAmerica, quote, shall produce within five  
17 days of the release of this order all documents relating  
18 to the maintenance of its proposed site for New Albany  
19 whether such documents were created before or after the  
20 real estate sale contract was executed.

21 I think -- end quote -- I think we've  
22 hit the 5th day. Now, if you haven't seen the order --

23 MR. CAREY: The order had not arrived in  
24 my office at New Orleans when I left on Monday to fly up  
25 here. Mr. Boyce had a copy of it yesterday that I don't

10 1 think gives me much time.

2 I recognize there's a five-day clause in  
3 the order but, I mean, you know, if we want to get into a  
4 stew about it, Mr. Boyce was out of the country until  
5 nearly midnight Monday night. We have not had a lot of  
6 time to prepare to comply with that, and I don't want to  
7 make a big thing about it but, you know, we had an  
8 understanding amongst ourselves that at the end of the  
9 pre-hearing conference last week the additional issues  
10 would be subject to discovery later after you got the  
11 documents, and we had a chance to get them together. I'll  
12 withdraw the objection to this question but I --

13 MR. SOLOMON: I'm not asking him to  
14 produce anything, I'm just asking him if he had any.

15 MR. CAREY: But still even though I  
16 recognize, and I will recognize now, that the judge has  
17 ordered any additional document be produced, to the extent  
18 that your inquiry goes beyond that --

19 MR. SOLOMON: It won't go beyond that.

20 MR. CAREY: Okay. Then I'll withdraw  
21 the objection and ask you to repeat the question.

22 Q The question is in several parts. Let  
23 me start -- do you have any documents relating to the  
24 maintenance of your proposed New Albany site which were  
25 recreated before the real estate contract known as the

10 1 Indiana Land Company contract?

2 A Any agreement for the land before that  
3 date?

4 Q Correct, before --

5 A No.

6 Q -- 11-6-'91?

7 A No.

8 Q All right. How about after 11-6-'91,  
9 were there any documents that were created after 11-6-'91  
10 pertaining to the --

11 A Agreements?

12 Q -- agreements, papers, anything to do  
13 with this site?

14 A No.

15 MR. SOLOMON: You can take that break  
16 now. I just have maybe 10 minutes if you like.

17 (Whereupon, a break was then taken.)

18 MR. CAREY: We'll go back on.

19 MR. SOLOMON: Back on the record. I  
20 have completed my examination of Mr. Boyce.

21 \* \* \* \* \*

22 EXAMINATION

23 BY MR. CAREY:

24 Q Mr. Boyce, I have just a couple of  
25 follow-up questions, first regarding Southeast Indiana,

10 1 the licensee of the stations that you -- or the former  
2 licensee of the North Vernon stations.

3 Do you still own the stock you had  
4 previously held in that corporation?

5 A Yes.

6 Q But is it true that that corporation is  
7 no longer the licensee of the station?

8 A That's correct.

9 Q With respect to the Kentucky Colonels,  
10 or I think more precisely the Honorable Order of Kentucky  
11 Colonels, please state whether or not the Kentucky  
12 Colonels are involved in various charitable activities?

13 A They are.

14 Q You were asked by Mr. Berfield, I  
15 believe, as to whether you and Mr. Young had had other  
16 business relationships.

17 Please state whether at sometime in the  
18 past you and/or MidAmerica have loaned Mr. Young money?

19 A Yes.

20 Q Now, Mr. Solomon asked you some  
21 questions regarding your integration statement, and just  
22 to clarify, is it true that the call letters of many of  
23 the stations you worked at have changed since the time  
24 that you worked at them?

25 A Yes.

10 1 Q Now, I would like to show you your  
2 application for construction permit FCC form 301, over on  
3 page 24, section 6. And, Mr. Berfield, thank you for  
4 having let him borrow yours. I'll let you have it back  
5 there.

6 At the top of the page there I ask you  
7 to read that question to yourself and refresh your  
8 recollection with that portion of the application.

9 A Okay.

10 Q Okay. Is it true that that question  
11 asks whether you plan to employ five or more full-time  
12 employees?

13 A Yes, that's what it asks.

14 Q Is it true your answer in that question  
15 is no?

16 A Right.

17 Q Okay. At the time you prepared and  
18 signed your application, had you made an affirmative  
19 determination that you would have four or fewer full-time  
20 employees?

21 A Yes. Full-time?

22 Q That's correct.

23 A Yes.

24 Q With this to refresh your recollection,  
25 would you care to -- excuse me, that would be leading.

11 1 MR. SOLOMON: Leading?

2 MR. CAREY: Yes. You guys aren't going  
3 to let me do that.

4 Q Mr. Boyce, please state whether, with  
5 your recollection having been refreshed by having reviewed  
6 your application now, whether that remains your intention?

7 A Yeah, I think it would have to be for a  
8 small station to keep employee staff small. A small town  
9 station can't afford very many.

10 Q I think that's all I have.

11 Oh, one more.

12 Mr. Solomon asked you about additional  
13 documents regarding your tower site, and I think your  
14 answer, and I'm not trying to --

15 MR. SOLOMON: The record speaks for  
16 itself.

17 Q The record is what it is, but just for  
18 point of reference I think the answer was other than the  
19 Land Company contract you have no documents.

20 With that as a background, just to focus  
21 your mind on the area of questioning, please state whether  
22 or not you have forwarded to the people, the site agents  
23 or owners an additional check that is not in your  
24 possession?

25 A Are you asking me if I have sent them